

Application No. 10/762,786
Amendment dated March 22, 2007
Response to Office Action dated November 22, 2006

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REMARKS

Favorable reconsideration and continued examination of this application are respectfully requested.

Claims 1, 4-10, 15-21 and 61-87 remain pending. Claims 2-3, 11-14, and 22-60 were previously canceled and claims 61-80 were previously withdrawn by the Examiner. Claims 1 and 86 have been amended and new claims 88-90 have been added. Support for the amendments to claims 1 and 86, and for new claims 88-90, can be found, for example, at page 13, line 20 through page 14, line 17, of the present specification. No new matter has been added.

Rejection of Claims Under 35 U.S.C. §112, Second Paragraph

At page 2, item 4 of the Office Action, claims 86-87 are rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to point out and distinctly claim the subject matter which applicant regards as the invention. For the reasons set forth herein, this rejection is traversed.

Claim 86 has been amended to remove the comma after "surface" in line 5, as suggested by the Examiner, and thus to even more clearly identify that the input channel is a feature of the lid plate. Accordingly, reconsideration and withdrawal of the rejection are respectfully requested.

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Rejection of Claims under 35 U.S.C. §102

At page 3, item 6 of the Office Action, claims 1, 4-6, 8-9, 15, 17, 82, and 84 are rejected under 35 U.S.C. §102(b) as being anticipated by Unger et al. (U.S. Patent Publication No. 2002/0029814 A1). For the reasons set forth herein, this rejection is respectfully traversed.

Independent claim 1 has been amended and now recites a device that includes a gas-impermeable cover. Unger et al. fails to disclose or suggest such a feature. Unger et al. does not mention any sort of a cover at all. One skill in the art would not be motivated to cover the device of Unger et al. with a gas-impermeable cover because to do so would defeat the purpose of the gas-venting material used in Unger et al. According to the claimed invention, the cover now featured in claim 1 can be applied to the device before, during, or after use, as mentioned at page 13, lines 20-22. Present claim 15, for example, provides a sample disposed in the device and the claimed gas-impermeable cover. Unger et al. fails to disclose or suggest a gas-impermeable cover whatsoever.

Furthermore, the Office Action relies on paragraphs [0191]-[0191] (*sic*) and [0450] in concluding that Unger et al. teaches that "gas-permeable elastomers plug all but one of the channel entries of the device (paragraph 0450)". Applicants' disagree with this interpretation of Unger et al. Nowhere does paragraph [0450] or any other portion of Unger et al. describe a plug that is gas permeable. Such a conclusion or assumption can only be derived from hindsight consideration of the presently claimed invention. Conversely, Unger et al. describes how compressed gas in a

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channel of the device diffuses through an elastomer block having a flow channel, the elastomer block comprising a material known to be permeable to gas. See paragraph [0453] of Unger et al. Nowhere does Unger et al. teach or suggest diffusing gas through a plug, and nowhere does Unger et al. disclose or suggest a plug made of a gas-permeable material, let alone a gas-permeable plug. In addition, there is no need for a gas-permeable plug in Unger et al. because the device diffuses gas through the elastomer block that defines the flow channel.

Moreover, one skilled in the art would not expect a plug to be gas-permeable. Even paragraphs [0190] and [0191] fail to teach or suggest any particular material whatsoever for a plug. Clearly, Unger et al. relates to gas diffusion through an elastomer block material having a flow channel, and not through a plug.

Each of claims 4-6, 8-9, 15, 17, 82, and 84 depends directly or indirectly from claim 1 and includes the features of claim 1.

In view of the foregoing, reconsideration and withdrawal of the rejection are respectfully requested.

Rejection of Claims under 35 U.S.C. §103

At page 5, item 9 of the Office Action, claims 1 and 7 are rejected under 35 U.S.C. §103(a) over Unger et al. (U.S. Patent Publication No. 2002/0029814 A1) in view of Dvornic et al. (U.S. Patent Publication No. 2003/0088024 A1). For the reasons set forth herein, this rejection is

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respectfully traversed.

Dvornic et al. fails to overcome the shortcomings of Unger et al. discussed above. Like Unger et al., Dvornic et al. fails to disclose or suggest any cover or plug whatsoever, let alone a gas-permeable plug or a gas-impermeable cover. Even if Unger et al. and Dvornic et al. were combined, the claimed invention would still not result. Claim 7 depends on claim 1 and should be allowable for the same reasons claim 1 is allowable. Reconsideration and withdrawal of the rejection are respectfully requested.

At page 7, item 10 of the Office Action, claims 1, 10, 19-21, and 81 are rejected under 35 U.S.C. §103(a) over Unger et al. (U.S. Patent Publication No. 2002/0029814 A1) in view of Anderson et al. (Anal. Chem., vol. 72, pages 3158-3164, (15 July 2000)). For the reasons set forth herein, this rejection is respectfully traversed.

Anderson et al. fails to overcome the shortcomings of Unger et al. discussed above. Like Unger et al., Anderson et al. fails to disclose or suggest any cover or plug whatsoever, let alone a gas-permeable plug or a gas-impermeable cover. Even if Unger et al. and Anderson et al. were combined, the claimed invention would still not result. Claims 10, 19-21,, and 81 depend on claim 1 and should be allowable for the same reasons claim 1 is allowable. Reconsideration and withdrawal of the rejection are respectfully requested.

At page 8, item 11 of the Office Action, claims 1, 16-18, and 82-83 are rejected under 35 U.S.C. §103(a) over Unger et al. (U.S. Patent Publication No. 2002/0029814 A1) in view of Gong

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et al. (U.S. Patent Publication No. 2003/0138941). For the reasons set forth herein, this rejection is respectfully traversed.

Gong et al. fails to overcome the shortcomings of Unger et al. discussed above. Like Unger et al., Gong et al. fails to disclose or suggest any plug whatsoever, let alone a gas-permeable plug, and Gong et al. fails to disclose or suggest a gas-impermeable cover. Even if the sealing layer 40 of Gong et al. is considered a cover, it is described as having venting holes or slots (*see* paragraph [0113] of Gong et al.), and thus would not be considered gas-impermeable. Even if Unger et al. and Gong et al. were combined, the claimed invention would still not result. Claims 16-18, and 82-83 depend on claim 1 and should be allowable for the same reasons claim 1 is allowable. Reconsideration and withdrawal of the rejection are respectfully requested.

At page 10, item 12 of the Office Action, claims 1, 82, and 85 are rejected under 35 U.S.C. §103(a) over Unger et al. (U.S. Patent Publication No. 2002/0029814 A1) in view of Levin et al. (U.S. Patent No. 6,303,389 B1). For the reasons set forth herein, this rejection is respectfully traversed.

Levin et al. fails to overcome the shortcomings of Unger et al. discussed above. Like Unger et al., Levin et al. fails to disclose or suggest any cover or plug whatsoever, let alone a gas-permeable plug or a gas-impermeable cover. Even if Unger et al. and Levin et al. were combined, the claimed invention would still not result. Claim 82 and 85 depend on claim 1 and should be allowable for the same reasons claim 1 is allowable. Reconsideration and withdrawal of the rejection are respectfully requested.

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At page 12, item 13 of the Office Action, claim 86 is rejected under 35 U.S.C. §103(a) over Gong et al. (U.S. Patent Publication No. 2003/0138941), in view of Unger et al. (U.S. Patent Publication No. 2002/0029814 A1). For the reasons set forth herein, this rejection is respectfully traversed.

Independent claim 86 has been amended and now recites a device that includes a gas-impermeable cover. Gong et al. fails to disclose or suggest any plug whatsoever, let alone a gas-permeable plug, and Gong et al. fails to disclose or suggest a gas-impermeable cover. Even if the sealing layer 40 of Gong et al is considered a cover, it is described as having venting holes or slots (*see* paragraph [0113] of Gong et al.), and thus would not be considered gas-impermeable.

Unger et al. also fails to disclose or suggest a gas-impermeable cover. Unger et al. does not mention any sort of a cover at all. One skill in the art would not be motivated to cover the device of Unger et al. with a gas-impermeable cover because to do so would defeat the purpose of the gas-venting material used in Unger et al. for the described elastomer block having a flow channel.

Regarding the gas-permeable plug featured in claim 86, and as discussed above, the Office Action relies on paragraphs [0191]-[0191] (*sic*) and [0450] in concluding that Unger et al. teaches that "gas-permeable elastomers plug all but one of the channel entries of the device (paragraph 0450)". Applicants' disagree with this interpretation of Unger et al. That is not what Unger et al. describes. As mentioned above, nowhere does paragraph [0450] or any other portion of Unger et al. describe a plug that is gas permeable. Such a conclusion or assumption can only be derived from hindsight consideration of the presently claimed invention. Conversely, Unger et al. describes

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how compressed gas in a channel of the device diffuses through an elastomer block having a flow channel, the elastomer block comprising a material known to be permeable to gas. See paragraph [0453] of Unger et al. Nowhere does Unger et al. teach or suggest diffusing gas through a plug, and nowhere does Unger et al. disclose or suggest a plug made of a gas-permeable material, let alone a gas-permeable plug. In addition, there is no need for a gas-permeable plug in Unger et al. because the device diffuses gas through the elastomer block that defines the flow channel.

Even if Gong et al. and Unger et al. were combined, the claimed invention would still not result, at least because neither reference teaches or suggests a gas-impermeable cover or a gas-permeable plug. Reconsideration and withdrawal of the rejection are respectfully requested.

At page 13, item 14 of the Office Action, claim 87 is rejected under 35 U.S.C. §103(a) over Gong et al. (U.S. Patent Publication No. 2003/0138941), in view of Unger et al. (U.S. Patent Publication No. 2002/0029814 A1) and further in view of Levin et al. (U.S. Patent No. 6303389 B1). For the reasons set forth herein, this rejection is respectfully traversed.

Claim 87 depends on claim 86, which should be allowable for the reasons set forth above. Levin et al. fails to overcome the shortcomings of the combination of Gong et al. and Unger et al. discussed above. Like Gong et al. and Unger et al., Levin et al. fails to disclose or suggest any cover or plug whatsoever, let alone a gas-permeable plug or a gas-impermeable cover. Even if Gong et al., Unger et al., and Levin et al. were combined, the claimed invention would still not result. Accordingly, reconsideration and withdrawal of the rejection are respectfully requested.

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CONCLUSION

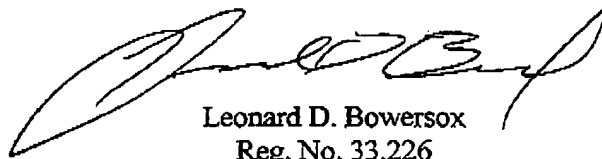
In view of the foregoing remarks, Applicant respectfully requests favorable reconsideration of the present application and a timely allowance of the pending claims.

Should the Examiner deem that any further action by Applicant or Applicant's undersigned representative is desirable and/or necessary, the Examiner is invited to telephone the undersigned at the number set forth below.

If there are any other fees due in connection with the filing of this response, please charge the fees to deposit Account No. 50-0925. If a fee is required for an extension of time under 37 C.F.R. § 1.136 not accounted for above, such extension is requested and should also be charged to said Deposit Account.

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Respectfully submitted,



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